

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-4017-01-CR-C-NKL
)	
DONALD RAY GERLT,)	
)	
Defendant.)	
)	
)	

ORDER

On November 10, 2010, United States Magistrate Judge William A. Knox recommended that the Court enter an Order finding Defendant Donald Ray Gerlt (“Gerlt”) competent to proceed in this case. Report and Recommendation [Doc. # 51]. No objections have been filed.

Having conducted an independent review of the record, the Court concludes that the Magistrate Judge’s Report and Recommendation is correct and should be adopted. In determining competency, the Court may rely on numerous factors, including expert medical opinions and the court’s observation of the defendant’s demeanor. *United States v. Robinson*, 253 F.3d 1065, 1067 (8th Cir. 2001). The mere presence of some degree of mental disorder in the defendant does not necessarily mean that he is incompetent to assist in his own defense. *Id.* The two experts who examined Gerlt arrived at opposite

conclusions. Dr. Kline opined after a three-hour interview with Gerlt that he suffered from psychotic disorder. [Doc. #49, at 9]. Dr. Rattan concluded after observing Gerlt for twenty-five days, including interviews and tests, that Gerlt does not suffer from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense. [Doc. #41, at 11]. In determining a defendant's competency to stand trial, the Court may rely on one of two competing competency opinions given by qualified experts. *United States v. Ghane*, 490 F.3d 1036, 1040 (8th Cir. 2007) (citing *United States v. Martinez*, 446 F.3d 878, 882 (8th Cir. 2006)). The Court finds that Dr. Rattan's assessment, based on a superior opportunity to evaluate Gerlt as compared to Dr. Kline's evaluation, is more persuasive and is consistent with the Court's own observations. Thus, the Court finds that Gerlt is competent to stand trial.

Accordingly, it is hereby

ORDERED that Magistrate Judge Knox's Report and Recommendation of November 10, 2010 [Doc. # 51] is adopted.

s/ NANETTE K. LAUGHREY
NANETTE K. LAUGHREY
United States District Judge

Dated: January 13, 2011
Jefferson City, Missouri